

Application No.: 10/584,098
Attorney Docket No.: 66090-004US0
First Applicant's Name: Mansour Samadpour
Application Filing Date: 30 October 2007
Office Action Dated: 23 June 2011
Date of Response: 23 December 2011
Examiner: Danielle B. Henkel

REMARKS

Claims 1-8 and 11-20 are pending and stand rejected on new grounds.

No claims have been amended herein.

Applicant thanks the Examiner for withdrawal of the prior anticipation rejection in view of Bradley, and further thanks the Examiner for the analysis of Gilbert, and of Ornath, all of which references are rebutted herein below.

Rejection under 35 U.S.C. § 103

The Examiner has rejected claims 1, 3-9, and 11-20 under 35 U.S.C. § 103(a), as allegedly being unpatentable over Bradley (US 2004/0107782) in view of Gilbert (U.S. 6,338,282) and in view of Ornath (U.S. 2006/0060006), for reasons as stated in the Office Action (hereinafter "OA").

The Examiner states that "[i]t would have been obvious to one having ordinary skill in the art at the time the invention was made to make the tool member detachable, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichmena*, 168 USPQ 177, 179. In addition GILBERT discloses a sampling system comprising a sample collection chamber, vacuum and sample intake (sampling member) that is reversibly detachable (Column 7, lines 33-47 and Column 8, lines 4-13). At the time of the invention it would have been obvious to one of ordinary skill in the art to modify the device of BRADLEY to include the sampling tool being sterilizable and reversibly detachable as taught by GILBERT because it allows for the removal of the sample intake in order to clean it such as by autoclaving (sterilizable) and for preventing cross contamination (Column 7, lines 33-47 and Column 8, lines 4-13, Column 1, lines 30-51). BRADLEY discloses a washing and cleaning (sanitizing means) for the sample tool (0072), and GILBERT discloses autoclaving (sanitizing) a sampling member (Column 8, lines 4-13), but does not explicitly disclose a reservoir and pump to circulate sanitizing fluid through the collection tool."

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The Examiner states, however, that” ORNATH discloses a contaminant scanning system for collecting vapors via vacuum comprising a sample inlet tube 122 (collection) and fluid delivery tube, 132 and cleaning system 138 which has a reservoir for heated detergent, solvent, or aerosol, (sanitizing fluid) in which the fluid is injected (pump) from the reservoir through the delivery and collection tubes to providing for cleaning of the sampling member (0065-0066). At the time of the invention it would have been obvious to one of ordinary skill in the art to modify the device of BRADLEY and GILBERT to include the sanitizing means as taught by ORNATH because it allows for the device to be cleaned after each use in which a contaminant vapor was detected, to prevent cross-contamination (0063).”

Applicant's traversal:

Applicant respectfully traverses the rejection based on the fact that neither Gilbert nor Ornath, alone or in combinations with Bradley, support a *prima facie* case of obviousness, and moreover Ornath fundamentally *teaches away* in several key aspects.

Bradley. Bradley has already been discussed in detail and rebutted in the prosecution record.

Gilbert. Gilbert merely teaches that a single liquid collection tube can be sterilized for reuse, and, alone or in combination with Bradley and/or Ornath (as discussed below), teaches absolutely nothing about Applicant's configuration for separate closed-loop sterilization of the collection fluid delivery channel and/or the collection fluid recovery channel of the integrated member as presently claimed.

Ornath. With reference to Figure 1, Ornath discloses a system **100** having an inspection chamber **136** having a collapsible mantle **104** in communication with a vapor (i.e., gas) collector **126** having a walled sample collection chamber and having a sample gas inlet (to receive gas samples from the inspection chamber **136**) and outlet (to a blower), the collector **126** being in communication with an analysis unit **127** adapted to determine whether there are particulates in the gas sample with the collection chamber (see, e.g., Figure 1, Abstract, Summary, paragraph [0052], etc.). The device can be used for scanning objects (e.g., suitcases placed in inspection

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chamber) for illegal materials (e.g., explosives or drugs) (see [0002], etc.). Additionally, there is a cleaning system **138** “which cleans mantle **104** ([0065], cited by the Examiner). Optionally, cleaning of the mantle is performed by injecting a liquid detergent toward mantle **104** and pumping out the liquid (followed drying using the compressor and blower). Optionally, cleaning of the mantle is performed by injecting a liquid detergent through air pipes **132**, and removing same through pipes **122**. Optionally, dry hot air is injected (see [0066], cited by the Examiner).

Contrary to the Examiner's statements, however, the cleaning system **138** does **not** circulate heated detergent, solvent, or aerosol through tube **132** and tube **122**, and rather is a separate system, independent of tubes **132** and **122**, for cleaning the mantle **104** (not the delivery and collection tubes). While Ornath discusses that optionally, cleaning of the mantle is performed by injecting a liquid detergent through air pipes **132**, and removing same through pipes **122**” such cleaning does **not** provide for or use Applicant's configuration for separate closed-loop sterilization of the collection fluid delivery channel and/or the collection fluid recovery channel of the integrated member as presently claimed. The fact that Ornath explicitly teaches a separate cleaning system **138** that does **not** circulate heated detergent, solvent, or aerosol through tube **132** and tube **122**, explicitly teaches away from Applicants' claimed invention. Additionally, Ornath further explicitly teaches away because it teaches that the tubes **132** and **122** are not detachable in the sense as presently claimed by Applicants.

In these fundamentally distinguishing and *contrary* respects, therefore, neither Gilbert nor Ornath, alone or in combination with Bradley, cure the limitations of Bradley, which has already been rebutted in detail in the prosecution record. Moreover, Ornath fundamentally and explicitly teaches away for at least the above-stated reasons.

Applicant's use of “a sterilizable, reversibly detachable integrated collection fluid delivery and collection fluid recovery member” in operative combination with “sanitizing means for sanitizing the integrated member, said means comprising a heatable sanitizing fluid reservoir for receiving the integrated member and a sanitizer pump, and configured to provide for circulating sanitizing fluid in a closed loop between and through the heated sanitizing fluid reservoir and the collection fluid delivery channel and/or the collection fluid recovery channel of

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the integrated member to provide for sanitizing of the integrated member” is both novel and counterintuitive.

Specifically, Applicant's device configuration for separate closed-loop sterilization of the collection fluid delivery channel and/or the collection fluid recovery channel of the integrated member, providing for a high degree of adjustability/flexibility of the sterilization cycle(s), where, in practice, more sterilization time, and with a higher frequency, may be required for sterilization of the collection fluid recovery channel, depending on the microbe(s) being sampled and the concentration thereof. Additionally, Applicant's method and device would be *contraindicated* to one of skill in the art by virtue of the fact that there would be no motivation to flush sterilization fluid through the collection fluid recovery channel (which would in operation be contaminated by the prior sampling) into the same sterilization reservoir being used to provide sterilization fluid for flushing the collection fluid delivery channel (which normally only receives sterile collection fluid). Indeed, the teachings of Ornath, asserted by the Examiner, explicitly avoid this problem by having a separate cleaning system **138** that does **not** circulate heated detergent, solvent, or aerosol through tube **132** and tube **122**, and Ornath explicitly does **not** teach that a reservoir as presently claimed by Applicants, is used in the context of tube **132** and tube **122**.

Applicant's solution, therefore, provides for a cost-effective, novel and nonobvious solution to a long-standing problem in the art, including art that teaches different and **contrary** approaches to sterilization from that presently claimed by Applicant.

Applicant, therefore, thanks the Examiner for the analysis and discussion of Gilbert and Ornath, but respectfully requests withdrawal of this rejection in view of the above rebuttal arguments. Neither Gilbert nor Ornath, alone or in combinations with Bradley, support a *prima facie* case of obviousness, and moreover Ornath explicitly **teaches away** in at least two fundamental aspects.

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